

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:19-CR-00086-RJC-DSC

USA,)
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)
)
v.)
)
)
JOHN HENRY MOORE,)
)
)

THIS MATTER is before the Court on invitation of the United States Court of Appeals for the Fourth Circuit, (Doc. No. 43: Order), to address the defendant's Petition for Writ of Mandamus, (Case No. 19-2076, Doc. No. 2).

The only thing this Court wishes to address is the defendant's misrepresentation of the undersigned's mental state in denying the recusal and stay motions, lest the reviewing Court be misled. In the defendant's Unopposed Emergency Motion to Stay District Court Proceedings, he errantly surmises that this Court "appears to have doubts regarding the propriety of presiding over this sentencing" and "harbors some discomfort." (Case No. 19-2076, Doc. No. 8 at 7). This Court made pellucidly clear that it believed the undersigned's prosecution of the defendant thirty years ago has no bearing on the trial and sentencing, if necessary, of the instant matter. (Doc. No. 39: Hr'g Tr. at 2-3 (declaring "no memory of that case, whatsoever," and the resulting ability to sit "like any other judge.")). Accordingly, disqualification is not required under 28 U.S.C. § 455(a), (b)(1), or (b)(3). See e.g. United States v. Simon, --- F.3d --- (7th Cir. 2019) (finding no basis for recusal of judge from presiding over felon-in-possession case who supervised

prosecution of prior case used to enhance sentence under Armed Career Criminal Act).

The Clerk is directed to certify copies to the defendant, the Federal Public Defender, the United States Attorney, and to the Clerk of Court for the United States Court of Appeals for the Fourth Circuit for filing in Case No. 19-2076.

Signed: October 7, 2019



Robert J. Conrad, Jr.
United States District Judge

